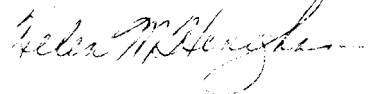


APPROVED: MEETING NO. 30-81

ATTEST:



MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
MEETING NO. 24-81

June 29, 1981

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, June 29, 1981, at 8:00 p.m.

PRESENT

Mayor William E. Hanna, Jr.

Councilman Steve Abrams

Councilwoman Phyllis Fordham

Councilman John Freeland

Councilman John Tyner

The Mayor in the Chair.

In Attendance: City Manager Larry Blick; Assistant City Manager Daniel Hobbs; City Attorney Roger Titus; Director of Planning James M. Davis; Budget Officer Anna Lee Berman; Information Officer Sue M. Patterson; Director of Community Development Douglas Horne; Director of Recreation Ronald Olson; Director of Finance John Lawton; and Chief of Police Jared Stout.

Re: City Manager's Report

Mr. Blick reported the following:

1. The State of Maryland approved the Program Open Space Grant for improvements to Courthouse Square Park Development.
2. A building permit was issued for a four story office building at 1700 Research Boulevard.
3. Residents on Lewis, Sunrise Drive and Horizon Hill were sent a letter regarding the experiment of speed humps on their streets. A meeting will be held at 8:00 p.m. on Monday, July 13 to explain the process.

Re: Resolution: To Establish
Humanities Commission

Resolution No. 14-81

Councilwoman Fordham read the Resolution at the request of the Mayor. Mayor Hanna asked if poetry is included under literature or linguistics. Councilwoman Fordham said if it is not under either, then she would like to see it placed in the resolution.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, Resolution No. 14-81, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council, was adopted by the Mayor and Council as amended.

Re: Appointments

Mayor Hanna, with the confirmation of the Council, made the following appointments:

Cultural Arts Commission: Eileen Mader - Chairman - one year term

Alternative Community Service Commission: Jane French - member - one year reappointment

Recreation & Park Advisory Board: Lauri William Koski - member - two year term
310 S. Horners Lane

Humanities: Nancy Nilsson - Chairman (1 year term) - Member (2 year term)
309 Twinbrook Parkway

Barbara Nickerson
604 Crocus Drive
two-year term

Catherine Landenburger
510 Pinewood Road
two-year term

George Curtis Pospisil
915 Crawford Drive
two-year term

Jean-Guillaume Netus
502 Rutgers Street
two-year term

Lloyd Welter
407 Hull Place
two-year term

Michael Conville
506 Azalea Drive
two-year term

Carmen Deeny
4 Sunrise Court
two-year term

Stephen Keifert
404 Crabb Avenue
two-year term

Re: Adoption of Resolution:
To Grant Annexation Appli-
cation, X-82-81

Resolution No. 15-81

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolution No. 15-81, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council granting Annexation Petition, X-82-81, was adopted by the Mayor and Council.

Re: Adoption of Ordinance:
To amend zoning map by
adding 18,950 square feet of
land, more or less, of
the Montrose Woods Joint Ventur

Ordinance No. 33-81

On motion of Councilman Freeland, duly seconded and unanimously passed, Ordinance No. 33-81, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council amending the zoning map, was adopted by the Mayor and Council.

Re: Adoption of Resolution: To
grant annexation application,
X-83-81.

Resolution No. 16-81

On motion of Councilman Tyner, duly seconded and unanimously passed, Resolution No. 16-81, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council granting annexation application, X-83-81, was adopted by the Mayor and Council.

Re: Adoption of Ordinance: To
amend zoning map by adding 9.8784
acres of land, more or less, of
Richard T. & Jacquelyn R. Ewing

Ordinance No. 34-81

On motion of Councilman Freeland, duly seconded and unanimously passed, Ordinance No. 34-81, the full text of which can be found in Ordinance Book No. 10 of the Mayor and Council amending the zoning map, was adopted by the Mayor and Council.

Re: Adoption of Resolution: To
approve, with conditions, Exploratory
Application, PRU-17-81, Berger/
Berman Builders, Inc.

Resolution No. 17-81

On motion of Councilman Tyner, duly seconded and unanimously passed, Resolution No. 17-81, the full text of which can be found in Resolution Book No. 7 of the Mayor and Council approving, with conditions, Exploratory Application, PRU-17-81, was adopted by the Mayor and Council.

Re: Award of Contract to convert
City vehicles to propane fuel

Bids were opened at 3:00 p.m. on June 18, 1981, in the Council Chamber for conversion of 48 vehicles for propane use, and to furnish propane fuel, storage tank, and dispensing system in accordance with approved specifications.

Six bids were received for vehicle conversions as follow:

Northern Propane Gas Company, Easton, Maryland	\$41,280.50
Capital L.P. Dual Fuel Inc., Gaithersburg, Maryland	42,230.07
Alternate Energy Installation, Strongsville, Ohio	44,827.00
Suburban Propane, Rockville, Maryland	46,480.00
Pargas Company, Waldorf, Maryland	50,007.00
Loves Auto Sales Company, York, Pennsylvania	50,250.00

Five bids were received for supplying fuel, storage tank, and dispensing systems. The bids have been compared using an estimated 1500 gal/week fuel usage for cost comparison purposes. The cost of annual tank lease and tank installation have been included in the pro rated annual cost.

<u>Vendor</u>	<u>Annual Cost</u>
Northern Propane, Easton, Maryland	\$56,416
Columbia Hydrocarbon Company, Pittsburg, Pennsylvania	58,098
Stargas Service, Cherry Hill, New Jersey	58,500
Pargas Company, Waldorf, Maryland	59,110
Suburban Propane, Rockville, Maryland	59,280

Staff recommends that the contract be awarded for the converting of 48 units to the low bidder, Northern Propane Gas Company in the amount of \$41,280.50; and further recommends that the contract for the supply of fuel, fuel storage tank and fuel dispensing system be awarded to the low bidder, Northern Propane Gas Company for up to three years, renewable annually, and cancelable by either party with 60 days notice.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, the contract for the conversion of City vehicles to propane fuel was awarded to Northern Propane Gas Company as recommended above.

Re: Approval to file text amendment
to accommodate Municipal Infractions
in the zoning ordinance and immediate
referral to Planning Commission.

The Maryland House of Delegates and Senate has recently made a minor change in the bill on Zoning - Municipal Infractions. They amended the bill to apply only to municipalities, not counties. The Governor has signed the bill into law.

To implement the law, the Planning Department and the Division of License and Inspections have drafted this text amendment to the Zoning Ordinance. The amendment will be similar to the section on municipal infractions in the Minimum Property Maintenance Code. The amendment will include the violations to which municipal infractions will apply and fines for these violations. The amendment will change various misdemeanor violations to municipal infraction violations.

As soon as this text amendment is adopted, the Division of Licenses and Inspections can begin to write tickets for violations immediately.

On motion of Councilman Freeland, duly seconded and unanimously passed, staff was instructed to file the text amendment and refer it to the Planning Commission for further study and review.

Re: Preliminary Review of Text
Amendment T-45-81

This subject text amendment has been prepared and filed on behalf of the Planning Commission to add a new zoning classification - Residential Townhouse (RTH) - to the Zoning and Planning Ordinance.

Councilman Tyner amended the wording of Attachment "A" by adding the word residential before the word townhouses on the first line. He also mentioned that there should be no more than eight townhouses in one row or staff's best judgement. The Mayor and Council and staff discussed this at length. Councilwoman Fordham asked that the staff take a close look at the parking requirement because there cannot afford to be too much parking.

On motion of Councilman Tyner, duly seconded and unanimously passed, the Mayor and Council referred Text Amendment T-45-81 to the Planning Commission for appropriate review and comment.

Re: Deletion of CDBG storm
drainage project on Lincoln
Avenue

Pursuant to a recommendation by the Public Works staff dated April 22, 1981, to delete the captioned project, the matter was fully discussed before the CDBG Citizens Advisory Committee at its June 4 meeting.

At the time the project was proposed and approved in 1976, it was thought that drainage problems affecting 305 through 315 Lincoln Avenue would be relieved by piping storm water. The affected property owners as well as a spokesperson for the Lincoln Park neighborhood, were invited to the meeting. It was explained that the Public Works department has determined that no useful purpose would be served by the project. The Public Works staff feels that in order to correct the drainage problems, the owners must provide some additional grading to their own properties.

The Committee, as well as those in attendance, concurred in the findings of the Public Works Staff. The staff, therefore, requests that this project be deleted and that the funds be reprogrammed.

Councilwoman Fordham asked that once deleted, does the money go back to the neighborhood or back into the pot. Mr. Blick said he can do whatever the Council so desires. Councilwoman Fordham asked if there are any more projects needed in the neighborhood. Mr. Blick said he could check and see if there are any projects that need to be done but were not done before because of lack of funds. Councilwoman Fordham said priority should be given to that

neighborhood for the use of the funds. Councilman Tyner asked if the neighborhood representatives agree to this. Mr. Blick said yes they do.

On motion of Councilman Freeland, duly seconded and unanimously passed, the funds were deleted from the Lincoln Park Storm Drain Project and staff instructed that the funds be used for any additional needed projects in the neighborhood.

Re: Approval of security lights
installation in Bullard Park
with CDBG funds.

The request from the Director of Recreation and Parks to provide security lighting at Bullards Park was reviewed by the CDBG Citizens Advisory Committee at its June 4 meeting. The Committee felt the request should be approved.

The use of CDBG funds for the requested project meets the eligibility criteria for the use of such funds. Staff recommends that \$1,706 be provided from the CDBG Contingency Account which has a current balance of \$38,104.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, installation of security lights at Bullard Park with CDBG funds was approved by the Mayor and Council.

Re: Citizen's Forum

The Mayor opened the meeting to those citizens who wished to address the Mayor and Council.

1. David Lee, speaking for himself and his father, owner of the Empress Restaurant in the Commons. Mr. Lee congratulated the Mayor and Council on the action they took by closing the escalators and taking away the free parking in the Mall. Mr. Lee said the New York investors are trying to use the Mall as a tax write off and the remaining merchants and he feel that the residents of the city are the ones bearing the cost. He recently read where the owners are not putting any further money into the Mall and there are now gross violations of the Fire Code and other laws. He feels the Mall should be closed by the City because of the violations. Mr. Lee also said that he knows people who are interested in buying the Mall, but the New York investors will not sell. Mr. Lee explained to the Mayor and Council that he cannot leave because the expenditures in his store are worth over a quarter of a million dollars and he would like to encourage the Mayor and Council to continue their doings. Mayor Hanna said treatment should be the same for everyone. He asked Mr. Blick why we have not served them with violations. Mr. Blick said

the Mall had been inspected and violations cited and infractions had been issued, but, the violations are not serious enough to close the Mall. Mr. Lee asked if the shutting off of the escalators and closing the doors poses a problem with the Fire Department. Mr. Blick said no because the doors can be used in an emergency so there is no problem. He also mentioned that this has been discussed with the Fire Department. Mayor Hanna added that parking is not a problem because people can still park but one cannot reach the Mall through the escalators. The only way one can enter is by walking around and using the Mall entrance. Mayor Hanna said he hopes the future holds something bright.

Re: Review of development plans for
Wootton's Mill Park

During the months of February and March 1981, staff has completed a comprehensive series of public meetings for the planning and design of the final Master Plan for Woottons Mill Park. Staff conducted a total of four meetings with the public for this project. These meetings included city staff and Mr. Van Dop, landscape architect consultant.

The major emergence of thought from these meetings was to preserve the natural environment of the park's unique ecosystem as much as possible.

The citizens agreed and decided to develop the following features they feel will enhance the park:

<u>Item</u>	<u>Cost</u>
Informal Play Field	\$ 7,000
Basketball Court	8,000
Practice Tennis Wall	1,000
Fitness Trail	10,000
Pre-School Play Equipment Area	8,000
Bike Paths and Bridges	62,000
Tennis Court/Garden Plot Parking Area	40,000
Trash Receptacles, Benches and Bike Racks	13,000
Park Signage	6,000
Trees & Wildflower Planting	30,000
Wootton's Grist & Saw Mill Historical Marker	4,000

The only items that the citizens did not want were the lighted tennis courts approved in an earlier Master Plan of the Park.

Funding for this project is provided in Project #R-204 of the FY'82 CIP in the amount of \$189,800 for park amenities. Another \$66,950 is budgeted in this project for a Storm Water Management facility that should be designed

during this phase also. Funding sources consist of \$200,850 from Program Open Space and \$66,950 from the Storm Water Management Fund.

The Storm Water Management plan calls for a facility to be located in this park. In order for this facility to blend with the park design, staff is recommending that it be done simultaneously with the park development. At this writing it is unclear to the Public Works Department what the appropriate size of the facility should be. In order that the proper design and size of the SWM facility be accomplished, staff recommends that an amendment to VIKa's contract be approved.

Staff recommends 1) approval of the Woottons Mill Park Phase II Master Plan as designed by VIKa, Inc., and presented by citizens, 2) authorize the City Manager to apply for a Program Open Space Grant using Storm Water Management Funds as the 25 percent match, and 3) authorize the City Manager to amend the current contract with VIKa, Inc., the park planners, to perform the study and design of a Storm Water Management facility for Woottons Mill Park.

Mr. Olson, Director of Recreation and Parks, introduced to the Mayor and Council Mr. Van Dop, the City's landscape architect consultant, and Ms. Sarah Byrne and Nancy Fjellstedt, two citizens who were involved in the development of the plan. Mr. Van Dop presented to the Council a slide show showing the site and told of several proposals for ball fields, bike paths, bridges, landscaping, fitness trail etc. Ms. Byrne and Ms. Fjellstedt spoke to the Council and told how they both felt about the plan. Ms. Burns, from the Fallsmead area, said that Fallsmead was hoping for as little development as possible due to the wildlife. She also said that she hopes the five foot bike path that will join the future county bike path will have as little invasion as possible. Mayor Hanna thanked all those who were involved and said he appreciates all the work done.

Councilwoman Fordham said the plan looks great and asked if the path would go to the high school. Ms. Byrnes said no the path will go directly through the woods in back of Wootton High. She said improving the existing path was discouraged because it goes to private homes. Councilwoman Fordham asked if safety was talked about. Ms. Byrnes said there was one concern and that was the woods are isolated and felt it would be safe because the path is used, especially by younger children. Councilwoman Fordham asked if the basketball courts are regulation size. Mr. Hayes said the court is an

elementary size but the net is regulation size. Councilwoman Fordham commented that a summer counselor for the city made the suggestion that the height of a basketball net should not be regulation size for children under 12 years of age and asked the staff to give this some thought so as to accommodate the younger children. Councilwoman Fordham asked if we are within the budget. Mr. Olson said yes with open space funds and are expecting to get a grant. Councilwoman Fordham said there will be a committee from the Maryland Municipal League coming to see how the city uses open space funds.

On motion of Councilman Tyner, duly seconded and unaimously passed, the Mayor and Council approved staff's three recommendations.

Re: Selection of firm to perform
actuarial study of retirement
system and review of health
insurance program

Last April staff recommended to the Mayor and Council approval of an independent actuarial evaluation of the City's pension plan and an evaluation of the health insurance plan. At that time the Mayor and Council asked staff to seek additional proposals and then recommend a firm for the study.

The Hartford provides an annual actuarial valuation as part of its services, of their pension program. It was felt that an independent review would be useful to test alternative assumptions from those used by the Hartford actuaries. The objectives of the evaluation would be 1) to ensure that the funding of the plan meets City objectives; 2) to ensure that the City and the employees will receive the greatest possible benefit from their investment in the retirement system; and 3) to ensure that the City is receiving an adequate level of service from the underwriter.

Staff is also proposing to examine the City's Blue Cross/Blue Shield health insurance program. The objectives of this study would be to 1) identify potential cost savings and cash flow improvements resulting from possible plan design and funding changes and 2) set up a routine evaluation system so that such evaluations can be done by City staff in the future.

Proposals were solicited from three actuarial firms with offices in the Washington D.C. area. These were Edward H. Friend and Co.; A.S. Hansen, Inc.; and the Wyatt Company. The criteria by which the proposals were evaluated were as follows in their order of importance: (1) professional reputation; (2) experience; (3) independence from insurance industry; and (4) cost.

All of the firms were found to be qualified and to have good reputations. However, Friend and Wyatt were selected for final interviews because they are particularly well known and experienced in this area.

Both firms propose to charge according to the amount of staff time it takes to complete the work. This cannot be fully known, however, until the work is underway and they have a better grasp of the problems involved. Friend and Company estimates that the retirement portion will cost between \$4,000 and \$5,000 and the health benefits portion will cost between \$3,000 and \$4,000. Wyatt estimates \$2,800 to \$3,800 and \$3,500 to \$4,500 respectively.

Because of its greater local governmental experience and greater emphasis on training, Edward H. Friend and Co. are recommended to conduct the analysis. Staff proposes to negotiate contracts containing not-to-exceed prices equal to the upper end of their estimated range. The work of the actuaries will be carefully monitored and if the actual billings are lower, the City will pay the lower amount.

Therefore, staff recommends that the Mayor and Council authorize the City Manager to negotiate contracts with Edward H. Friend & Company to (1) perform an evaluation of the City's retirement system at a cost not to exceed \$5,000 and (2) to evaluate the present health insurance program at a cost not to exceed \$4,000.

Councilman Tyner moved, to accept staff's recommendation of awarding the Pension Plan and Health Insurance Plan evaluation to Edward H. Friend & Company with the cost not to exceed \$5,000 for the retirement system evaluation and not to exceed \$4,000 for the health insurance evaluation. The motion was seconded by Councilman Abrams.

Councilwoman Fordham said she agrees with the retirement system evaluation, but to take \$4,000 to evaluate the health insurance plan does not seem to need an indepth evaluation. She thinks staff could do a lot of it in-house. She asked why staff could not do it. Mr. Lawton, Director of Finance, explained that staff does not have the expertise to do the evaluation. Councilman Freeland said he remembers when the MML had an outsider look at their health insurance plan and a substantial savings was found. The league did not have the expertise to do the study inhouse. He feels that the City needs someone to come in with a clear view to openly evaluate the plan. Mayor Hanna asked if the money to pay for the study was coming from the retirement system. Mr. Lawton explained that at budget time it was unknown what

the cost of the evaluation would be. The City's portion of the fee is flexible, but the employees fee is fixed. Mayor Hanna said he is against taking money out of the retirement fund because it was not included at budget time. Mr. Blick said the city is not using money paid to insurance or Blue Cross/Blue Shield but using money budgeted for payment to the two companies. He said staff feels that there is a potential for saving several times what was spent over the next few years. Mayor Hanna said he would like to see \$1,000 as part of the mid-year review. Councilwoman Fordham asked if it would make any difference in the cost if the City was to hold and wait on the health insurance evaluation. Mr. Lawton and Mr. Blick both felt that the cost would not increase. Councilman Tyner said he thinks if staff feels it is necessary to do a study on the insurance policy than it should be done. He also said that if the insurance study can wait he will amend his motion to strictly study the retirement fund as long as the seconder would agree. Councilman Freeland said he agrees with Councilman Tyner. He also added that the paper work alone to reconsider a \$4,000 evaluation, might not be wise. He feels the City should go ahead with both studies. Councilwoman Fordham said she is not comfortable with the study of the health insurance because of lack of information. She moved to amend the motion to have staff supply more information. The motion died for lack of a second. Councilman Abrams said he has no problem with doing both studies at the same time if staff feels it should be done now. Mayor Hanna reiterated his disapproval with the review of the health insurance plan because it was decided long ago to do a review of just the City's pension plan. A vote was called for on Councilman Tyner's motion to approve the evaluation of the City's retirement and health insurance policies. Councilman Tyner's motion passed four to one with Mayor Hanna and councilmembers Freeland, Fordham and Abrams voting aye and Councilwoman Fordham voting nay. Mayor Hanna said he is voting for this because it was his idea but he is not satisfied with having the health insurance study put in after it was agreed just to review the City's retirement plan.

Re: Receipt of report from West
Montgomery Avenue Task Force

In September, 1978, the Mayor and Council of Rockville, Maryland, appointed a citizens task force consisting of representatives from different City commissions and civic associations. The charge to the Task Force was to identify problems

associated with traffic flow being experienced on West Montgomery Avenue, conduct necessary data collection and studies, discuss possible corrective measures, and present a report to the Mayor and Council. The Task Force received technical support from the City's Departments of Public Works and Planning.

Mary Lynn Scott, Chairman of the Task Force, presented to the Mayor and Council, the Task Force's report and made a presentation to the Mayor and Council on the task force's identification of problems, summary of recommendations, discussion of problem by general subject, urban design construction, discussion of recommendations, overall effect of the recommendations, task force summary and discussion of the minority reports submitted by Anthony Kanz and Granville Paules. Ms. Scott also gave a slide presentation along with her oral report.

Mayor Hanna thanked Ms. Scott and also the Task Force members for all their time spent on this project. Councilman Tyner asked Ms. Scott how the recommendation for a one-way street on Williams Street affected the residents there and he also asked what if the residents do not want a one-way street. Ms. Scott told Councilman Tyner that the Civic association wanted to cut down on traffic and felt that a one way street might help. Councilman Tyner asked Ms. Scott if the Task Force had come up with a recommendation as to whether the City should survey the road in terms of rights of way. Ms. Scott said it was not recommended but she thinks it should be. The Task Force tried to come up with a plan that would stay within the existing sidewalks. Councilman Tyner asked if the study was done under the present traffic conditions. Ms. Scott said yes and pointed out that Table 6 of the report has a prediction of traffic counts. Councilman Tyner thanked Ms. Scott for her time. Councilwoman Fordham asked Ms. Scott if the Task Force took into consideration the effect on West Montgomery Avenue if truck traffic is abandoned if and when Gude Drive and Maryland Avenue were expanded. Ms. Scott said it was briefly discussed but a recommendation was not made because the Task Force was uncertain of the status of the roads at this time. Mayor Hanna said the Task Force has put in a lot of hours but he notice that there is no recommendation on the geometrics from Falls Road to Washington Street. This seems to be where most of the problems is and thinks something has to be done. The cars are backed up all around. He asked what the reasoning was behind no changes to the geometric. Ms. Scott said the accident data was low except at Adams Street. There were only 2

accidents and the Task Force could not identify any specific problem. Mayor Hanna said he was not thinking of accidents, but traffic.

Councilman Tyner asked Mr. Kanz if he would explain his Recommendation No. 1 which he makes in his minority report that talks about a three lane cross section throughout, with flush median treatment (i.e. brick work, cobblestone or other pavement treatment) between intersections. Mr. Kanz explained his thoughts and feelings and said he felt the recommendation would remove the fears of people making left hand turns. Councilman Tyner asked if the center lane would be slightly raised from the other two lanes. Mr. Kanz said that was his intention so as to pass stranded cars, buses loading and unloading and the left turn spots would be paved. Councilman Tyner asked the staff if a working document was used on Mr. Kanz's recommendation, and if so, he would like to see it. Mr. Davis explained the staff's thoughts and said the reports will be provided.

Mayor Hanna thanked Ms. Scott and the Task Force members again for all their time and work invested in this study.

Re: Decision: Appeal by CEBCO,
Inc., from Planning Commission
decision.

The staff advised that there are three courses of action open to the Mayor and Council relative to the disposition of the subject appeal:

1. Remand the case back to the Planning Commission and request a more complete explanation of the reasons for their denial.
2. Over-rule the Planning Commission and approve the Exploratory Application based on a finding that the Planning Commission presented no reasons to sustain their denial.
3. Concur with the Planning Commission's denial based on the facts at hand.

From the staff's point of view, options 1 and 2 are the only real courses available to the Mayor and Council. Option 3 cannot withstand court challenge.

Councilman Abrams moved, duly seconded by Councilwoman Fordham, that the case be remanded to the Planning Commission with directions to provide a more complete explanation of the reasons for the denial and also to leave it open to the Planning Commission to accept any additional suggestions made by the developer and come back to the Mayor and Council with its decision.

Councilman Tyner said he would concur with the motion only if the community was able to add additional suggestions to the Planning Commission. Councilman Abrams

said he shares Councilman Tyner's thoughts, but the only one who can make a change would be the applicant. That is why the motion was made that way. He would also like to see more complete documentation. Councilman Tyner said he would like to hear from the Planning Commission regarding the letter dated June 26, 1981 from the New Mark Homeowners Association. Mayor Hanna said that this seems to be an item that just won't seem to go away. Sooner or later, a decision is going to have to be made. Mayor Hanna said he thought that the developer and the Citizen's association had reached an understanding. Is that correct. Mr Davis said that is correct and that the Planning Commission also had that understanding. Mayor Hanna asked why the PRU did not hold up, what went wrong. Mr. Davis briefly explained what led the Planning Commission to its decision to deny the application. Mayor Hanna asked if the June 26 letter from New Mark Commons has been rejected by the developer. Mr. Davis explained that the developer, Mr. Burgdorf, has not yet received a copy of the plan. Councilwoman Fordham expressed her displeasure that the two could not get together and come to some type of agreement. She said that a decision has to be made and she is sorry that there is not enough information in front of the Council this evening to make that decision. Mayor Hanna said he agrees with Councilwoman Fordham and it is clear that the developer has rights just as well as the citizens and the Council will need to say yes or no. Councilman Abrams said that the Planning Commission has its rights also and the Council has the right to let the Planning Commission explain the decision. Mayor Hanna said he will go along with the motion in hopes that this final letter may be the basis for an agreement. If not, the Council will vote next time it comes before them. Mayor Hanna asked Mr. Abuhove to study it again and take the June 26th letter into consideration in making its recommendation because next time a definite yes or no decision will be made. Mr. Abuhove said there is a misuse of terms. It is not the recommendation of the Planning Commission, it is the decision of the Planning Commission. Councilman Freeland said it is his understanding that nothing is needed from the Planning Commission if an agreement can be reached and he hopes that both parties will get together so the decision will not have to come back to the Mayor and Council.

After further discussion, the motion passed unanimously.

Re: Decision and Instructions to
staff re Annexation Petition,
X-84-81, Montrose West Limited
Partnership

Mr. Owens showed the Mayor and Council the subject property and pointed out the location of the property, the means of egress and ingress, etc. Councilman Abrams asked if the staff has a preference as to what would be, in their opinion, the best access point to the property. Mr. Owens said the desirable access would be off of Fortune Terrace which would mean coming off someone else's property. Councilman Abrams asked Mr. Davis if he had traced the owners of the property. Mr. Davis and Mr. Owens explained to the Council the ownership of the property with the use of the maps. Councilwoman Fordham asked where on the property would the access have to cross. Mr. Owens, aided by the use of the map, pointed to a large lot slightly to the east where Monroe street is presently located. There is an existing driveway in the area the applicant had hoped to use but in correspondence recently received the owners said the property would not be available. Staff is now in the process of talking about an access easement. Councilwoman Fordham asked about a land swap between Furman and the contract owners. Mr. Furman explained to Mrs. Fordham the difficulties and problems involved with such an arrangement. Mr. Furman explained further and added that if the value of the land was reduced the mortgage company could call the mortgage. Councilman Tyner asked the City Manager if there had been any discussion about considering an intersection at Monroe Street and Fortune Terrace. There are many intersections where three streets come together. Mr. Owens said he did not know if that had been addressed specifically or not but the traffic engineer has looked at alternate possibilities. Councilman Tyner asked if it was considered. Mr. Owens said no, not specifically at Monroe Street. Councilwoman Fordham asked what if the City was to offer to purchase a piece of land for access and was denied, the City would condemn the land and take it. Mr. Furman explained that there is a clause providing for condemnation proceedings.

Councilman Abrams thought it would be appropriate to table the decision and instructions to staff and reschedule it for discussion. He said he shares Councilwoman Fordham's thoughts and does not want to deny annexation. He would go to all lengths to try to come to a resolution.

Councilman Abrams moved, duly seconded by Councilman Freeland, to table Item No. 19, Decision and Instructions to staff re Annexation Petition, X-84-81, and reschedule it for the next meeting. Mayor Hanna said he is against the

motion to table. He does not think it is possible to get access on Fortune Terrace and he thinks that Councilwoman Fordham's thoughts would not stand up in Court because it is not for public use. Mr. Titus had no comment. Mayor Hanna said he is prepared to make a decision tonight because he does not want to see this go down the drain. He is prepared to support a motion for approval if someone so moves. He does not think that a three-week delay is wise. Councilman Freeland said he is prepared to make a decision. He explained that the motion to table does not mean he is against the annexation, but his vote will be on one item and that is the annexation. He is not prepared to decide on the design of the access, the buffering or the screening of the building. Councilman Abrams said he wished it was as simple as Councilman Freeland explained. Councilman Abrams expressed his concern that if an annexation was allowed to go through without conditions being placed, then the City would lose its powers for placing conditions. By moving to table the decision would enable staff to further review the situation and allow the City Attorney to look into Councilwoman Fordham's suggestion. Councilman Tyner said he felt if the City were to annex the property to I-3 then the amenities could work themselves out. As of now, there is not too much that can be done with Fortune Terrace and it is not a good thing to bring I-3 into variation. Also thinks that berming can be worked out in the detailed application. Mayor Hanna said he agrees with Councilman Tyner's desires to annex the property to I-3 and like everyone else, he is here for a decision. Mayor Hanna explained that he and Councilman Tyner will not be present at the next meeting and if the motion passes to table a decision until the next meeting there will be a delay of four weeks. Mayor Hanna asked Mr. Furman how important it is to have the Council make a decision this evening. Mr. Furman said a delay of four weeks will cost him \$100,000 because he is holding together six pieces of property and a delay makes it more difficult to hold the property together. The Council and Mr. Furman discussed this matter further.

Councilman Abrams asked what would happen if the variance that is going before the Board of Appeals is denied. Mr. Furman said he still plans to build but the building would be different and in conformance with the setbacks allowed.

Mr. Furman told the Mayor and Council that the access route could be handled with the staff as well as the landscaping. In fact, he plans to do more than what the City is asking for. He expressed his concerns over condemnation proceedings for fear that it could last for two years. Mr. Furman asked the Council not to get into all the details now because he believes something acceptable can be worked out. Mayor Hanna said he knows that Mr. Furman and City staff have been working together and he does not want to cost someone \$100,000 just to decide on options. He is willing to go along with Councilman Tyner and annex the property to I-3 and have staff work on the access. Councilman Abrams said he might deny the annexation for that reason. Councilman Freeland said he is sympathetic to Councilman Abrams' point but he also agrees with other points made by the Mayor and Council on what is the key issue. He added that a decision will still have to be made. Mr. Titus, the City Attorney, told the Mayor and Council that they could instruct the staff to bring back more information but also instruct the staff to prepare the necessary legal documentation for approval of the annexation, explaining that it would be at least four weeks before final approval of the Resolution and Ordinance can be made. Mr. Titus also mentioned that when final approval of the Ordinance and Resolution comes up for final adoption the Mayor and Council can go ahead and grant the approval if they so wish, or deny it until they are satisfied with the conditions. Councilman Freeland said he agrees with Mr. Titus.

Councilman Abrams' motion to table a decision until the following meeting failed to pass with Councilman Abrams only voting aye and Mayor Hanna and Council members Fordham, Freeland, and Tyner voting nay.

Councilman Abrams moved to instruct the staff to prepare the necessary legal documentation for approval but with conditions. The motion died for lack of a second.

Councilman Tyner moved, duly seconded, to instruct the staff to prepare the necessary legal documentation to approve the annexation and place the subject property in the I-3 zone.

Councilman Abrams asked the City Attorney for an explanation for the failure of his motion. Mr. Titus explained it to him. Councilman Freeland added that the Council still has the option of adding conditions before final action is taken. Mr. Blick said he was not clear on Councilman Tyner's motion because of the reference that Councilman Tyner makes to the June 26 memo from the Planning Director regarding setback requirements and berming. Mr. Blick explained that

a contract is needed to accomplish that and staff will need instructions from the Council to cover the contract. Mr. Tyner said that is not part of his motion. Mr. Titus said it is his understanding then that the motion is to prepare a resolution to annex the property and an ordinance to zone the property in the I-3 zone. Mr. Blick said it is his understanding that the Council does not care at this time to have a contract for berming and access off of Seven Locks Road. Councilman Freeland said if the Council wants to add conditions or anything else, the Council will do so at another time. Mr. Titus told the Mayor and Council that they are not committing themselves at this time and will be able to amend the ordinance and resolution, if they so wish, at a later time. Mr. Titus said it is also his understanding that the City Manager is to keep talking with the developer.

Councilman Tyner's motion passed with Mayor Hanna and Councilmembers Fordham, Freeland, and Tyner voting aye and Councilman Abrams voting nay.

(The Mayor and Council took a five minutes recess at this time.)

Re: Decision and Instructions to
staff re Street Closing Application
SCA-35-81, portion of Monroe Street

Councilman Abrams, moved, duly seconded, to instruct the staff to prepare the necessary legal documentation for approval of Street Closing and Abandonment Application, SCA-35-81. Councilman Tyner moved, duly seconded, to amend Councilman Abrams' motion to incorporate the Planning Commission's recommendations as stated in their May 7 memo to the Mayor and Council. The motion, as amended, passed unanimously.

Re: Review of 15 year Master Plan
for Educational Facilities

Mr. Davis presented to the Council the Planning Department's review of the Superintendent's Preliminary 15 Year Master Plan for Educational Facilities. Mr. Davis presented to the Mayor and Council a slide show and explained the four parts of the review division into. Part 1 presents the time frame within which the Plan will be reviewed, modified and adopted by the Board of Education. Part 2 discusses the overall Plan and its organization; trends in enrollment and classroom needs; minimum requirements to maintain eligibility for State school construction funds; and neighborhood impact issues. Part 3 presents a summary of the Plan's recommendations as they affect the City during the first and second five years of the 15 year planning period. and Part 4 summarizes the March 11, 1981, "Long Range Educational Facilities Planning

Policy," which serves as the Board of Education's directive to the Superintendent to close as many schools as possible while not compromising quality of education or sound education practices.

During the slide presentation, the Mayor and Council asked for clarification on several items and asked various questions, all of which were answered by Mr. Davis. The Mayor and Council, Mr. Davis and Mr. Abuhove, Chairman of the Planning Commission, discussed the review at length and the general consensus was that the plan does not seem totally acceptable. Mayor Hanna asked Mr. Abuhove if he felt that in relationship to the community, should the school be a total part of the community. Mr. Abuhove said the same question keeps coming up as to whether the boundaries should be changed so that Rockville becomes a group. Councilwoman Fordham said the Council does have a policy and that is that Rockville children should go to school within the City limits.

Mr. Abuhove told Mayor Hanna and the Council that the Planning Commission is looking for some guidance and also asked if the Council wants the Commission to continue reviewing the study. Mayor Hanna said the feelings of the citizens should be heard.

The discussion turned toward the subject of inner city schools. Mayor Hanna said he does not like the idea of not having an inner city school. Councilwoman Fordham shared her concerns about inner city schools. She also added that there are several things that she is frustrated and disappointed about, one of which is the School Board's refusal to accept Rockville as a political entity and to allow them to sit in as a spokesman on closing and other important related matters. She also mentioned that it was unreasonable of the School Board and the County Government to refuse to give the City right of first refusal on schools no longer in use. Mr. Abuhove suggested that the city run the schools itself. Mayor Hanna said that there are many cities that do run their own schools and further explained some of the advantages and disadvantages of such an arrangement. Councilman Freeland said he thought Mr. Abuhove made a good point and told the Council about a City he had just visited and what that city's problems were in regard to closure of their schools. There was deterioration on the buildings. Some were knocked down and vacant lots were left, the houses around these empty lots were deteriorating & more schools were being built outside the city limits. He feels the City should lay down some type of strategy that controls the City's option or feels the population will suffer because of it.

Mayor Hanna thanked the Planning Commission and Department for coming this evening and said he looks forward to working together with them in the future weeks.

Re: Approval of membership fee
to Partners for Livable Places
for Economics of Amenities
Program.

On May 4, the Mayor and Council discussed Rockville's participation in the Economics of Amenities Program, sponsored by Partners for Livable Places. At that meeting, Councilwoman Fordham requested additional information on what Rockville would receive by contributing \$3,300 to Partners for Livable Places.

For each of the three years, each Pilot City is expected to raise \$10,000 through local business contributions, or the City may pay the money out of its budget. Of this total, \$3,300 will be paid to Partners for Livable Places as an administration and management fee. In return for this fee, Rockville will receive publications, technical assistance, and referral services. The balance of the funding, \$6,700, is to be held in a reserve account as seed money for Rockville Economics of Amenity projects. The City also has the option of retaining the \$6,700. In fact, there is no obligation to reserve any amount over the \$3,300 paid to Partners.

Staff therefore recommends that the Mayor and Council endorse the Economics of Amenity Committee and support the activities of the Rockville Economics of Amenity Committee, and also authorize the City Manager to pay the \$3,300 fee for the year 1981 to Partners for Livable Places for Rockville's membership.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, staff's recommendations as listed above were approved.

Re: Submission of State Legislative
items to Maryland Municipal
League

The following Legislative Action Requests are proposed for submission by Rockville to the Maryland Municipal League for review by the MML Legislative Action Committee. Mayor and Council review and approval is requested.

1. Permit municipalities to set speed limits below 25 mph in school zones.
2. Enclave annexation - would permit municipalities to annex, without the usual referendum requirements, those enclave areas which may exist within municipal boundaries.
- 3a. Require Boards of Education which are considering school closings within a municipality to secure a "community impact assessment" from the municipality prior to the final decision by the Board of Education

- 3b. Provide for mandatory review by municipal governments over proposed school closings within municipal boundaries; and provide that a super majority of the Board of Education be required to override a municipality's recommendation on the school closing.
4. Provide for mandatory review by municipal governments over all pending zoning map changes within a 1-mile radius of a municipality's corporate limits; and provide that a super majority of the County governing body be required to override a municipality's recommendation in this matter.
5. Provide for state financial assistance for undergrounding of utility wires where the municipality determines a "safety hazard" to exist.

After the Mayor and Council have reviewed these items, staff will fill out the required MML questionnaire forms and submit them by the deadline of July 13, 1981.

Councilman Tyner said he agrees with 1, 2, & 5 but not 3 or 4. He feels these are politically unworkable on the state level and doubts that LAC would take them up, especially item 4. Councilman Abrams said he also has a problem with item 4. Councilwoman Fordham said she is for 1, 3B & 5 and she also agrees on 4. She feels 3B should be given some airing and thinks many other cities are in the same position and this is one way to move an idea along. Mayor Hanna said he is for 1, 2 & 5 and he also shares Councilman Tyner's thoughts. Mayor Hanna said he goes along with the first half of 3B for providing for mandatory review but he does not go along with the other half for providing for a super majority. He said he thinks this should be consolidated during the process. He said item 4 should be worked on with the County and that there should be an understanding with the County when zoning within a one mile radius that the City should be notified because the City has had many surprises. Councilman Abrams said he agreed with Mayor Hanna.

A tally was taken and the Council agreed on 1, 2, 5, and the first half of 3B. There were in total disagreement with item no. 4.

Mayor Hanna asked if there was anything anyone wanted to add. There being no new items, the matter was closed.

Re: Authorization of consultant
services for review of Town
Center sites

Staff recommends that the Mayor and Council authorize the City Manager to contract with James T. Wollon, Jr., AIA in an amount of \$9,850.00 to make recommendations on the most appropriate uses of four sites in the City's Town Center. The sites include the parking lot located between the old Post Office

and the County Federal Office building, the grassy area between the gray Courthouse and Montgomery Avenue, and two small sites on either side of the First National Bank. This work would supplement the more general work which was provided by Arthur Cotton Moore Associates.

On motion of Councilwoman Fordham, duly seconded and unanimously passed, the City Manager was authorized to contract with James T. Wollon, Jr., AIA in an amount of \$9,850.00 to make recommendations on the most appropriate uses of four sites in the City's Town Center.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. J. J. Delaney, Esq. re New Mark Commons/CEBCO
2. Petition from North Farm residents re Montrose Office Park

Councilman Abrams asked the City Manager if the concerns regarding landscaping have been studied yet. Mr. Blick said they have not but staff will be looking into the matter.

3. Barbara Piczak, re locust tree
4. T.A. Gans, re CATV
Barbara Gross, re CATV
5. M.P. Coughlin, re pool addition
6. N. Woll, re sidewalks

Re: Information Items

The Mayor and Council noted the following items of information:

1. Notice of open space grant award
2. Copy of letter to HUD re Hold Harmless Grant

Re: New Business

1. Councilman Abrams said last week, while the Mayor and Council was in Ocean City, Maryland, attending the annual MML Convention, Amanda McKerrow, was in Russia winning a gold medal in the Moscow International Ballet Competition. Councilman Abrams said he was disappointed to learn that Ms. McKerrow lives just outside the City limits and is not a Rockville resident as the newspapers have been reporting. He said since she has brought so much attention to Rockville, he would like to make her an honorary citizen. He also suggested that the City offer her the use of the F. Scott Fitzgerald Theatre if she would like to perform before her friends in the Rockville area. Mayor Hanna said he thinks it is nice that she has brought so much attention to Rockville and also thinks

it would be nice to honor her in some way other than what Councilman Abrams has suggested. As a compromise, Mayor Hanna asked that Ron Olson, Director of Recreation and Parks, contact Ms. McKerrow and invite her to the Fourth of July celebration to perhaps give her the key to the City. Councilwoman Fordham said it is marvellous that she she did so well. It was the consensus of the Council to present Ms. McKerrow with the key to the City at the July 4th celebration.

2. Councilman Abrams said at the last meeting while he was Mayor pro tem, he requested that an item be placed on the agenda for this evening. Since it was not, Councilman Abrams moved, duly seconded by Councilman Freeland, to hold a public session on Cable TV, more of a public forum than a public hearing, for the citizens to express their views on the subject. Mayor Hanna said he would be against a public session adding that it would be better to have a public hearing for the record. He suggested Councilman Abrams change his motion to move to have a public hearing.

Councilwoman Fordham asked the City Attorney if it were true that the City is open to any franchise at anytime. Mr. Titus said there is an ordinance for allowing for such. Councilwoman Fordham asked if anyone has applied. Mr. Blick said no. Mr. Hobbs, Assistant City Manager, said there is an advertising requirement that needs to be established first. He then explained briefly the procedure. He also suggested that the City Attorney review the present ordinance to see if it is line with the FCC's new rules.

Councilman Freeland said he thinks it is appropriate to have something on record if the City does or does not want Cable TV. He would like to have a better feel from the citizens. He explained that if no one show then the City has its answer and if an overwhelming number of people show up then the City's interest should be different. Mayor Hanna said if the Council would like a public hearing on the matter then he will schedule a public hearing, but he will not schedule a public forum. Councilman Tyner pointed out to the Council that five communities after having town meetings on cable tv, decided to take no action because there was no public interest. He said there should be some mechanism to give those who are interested in voicing their opinion an opportunity to do so. He said that if you have a public hearing, "rent-a-citizen" will be in here and so will everyone else, and he does not feel that will give the Council a true answer. He is not for a public hearing at the expense of the public. He suggested maybe putting a questionnaire in the City Newsletter asking the citizens' feelings.

Mayor Hanna said he would like to write an article on what is wrong with Cable T.V.

Councilman Abrams said he has no objection to modifying his motion to hold a public hearing instead of a public forum. Councilman Freeland, the seconder of the motion, said he has no problems accepting the amendment to the motion. Councilwoman Fordham said she is not interested in a public hearing on Cable TV because she feels the City will not get a true barometer on what the public wants. Councilman Tyner suggested putting a little box in the City Newsletter asking for the citizens feelings. Councilman Abrams ~~stated~~ his feelings again that he wants the Citizens to have the opportunity to come forward and express their views and he also reiterated his point about not having his request for cable TV on this evenings agenda.

Councilman Abrams' motion to hold a public hearing on Cable TV failed with Councilman Abrams and Freeland voting aye and Mayor Hanna and Councilmembers Fordham and Tyner voting nay.

3. Councilman Tyner suggested that the City Newsletter contain a small article so as to hear from the citizens and explain why the City is not interested in the County's proposal. Mayor Hanna said he has no problem with that except the public is subjected to lots of propaganda. He suggested that perhaps the article should be on the pros and cons of Cable. Councilwoman Fordham said the City must be very careful about politicking anyone's views. Councilman Tyner said the newspapers have been very factual in explaining why the City is not going to pursue Cable. Councilwoman Fordham said she is not interested in having a yes or no response from the citizens asking them if they are or are not interested in Cable but would like to see an article on the pros and cons. Councilman Freeland said he does not feel that the Newsletter could go into an indepth explanation on Cable. Mayor Hanna said it is the consensus of the Council that an article in the Newsletter is not feasible because it could not go indepth. He said he thinks a small article explaining why the Council is not interested in Cable TV now, not to say some time in the future, would be good.

It was the consensus of the Council that an article about the Council's decision be put in the Newsletter.

4. Mayor Hanna asked that the City Manager put on his tickler list for next May or April, that when the MML asks for a door prize for their convention that the City does not give them one plate. He asked that when the solicitations come out that they talk about it.

Re: Approval of Minutes

On motion of Councilwoman Fordham, duly seconded and unanimously passed, the Minutes of Meeting No. 19-81, May 16, 1981, were approved as written.

Re: Executive Session

Upon motion made by Councilman Abrams, duly seconded by Councilwoman Fordham, and unanimously passed, the Mayor and Council convened in closed executive session at 11:55 p.m. for the purpose of discussion of personnel matters, considering preliminary matters concerning a proposal of or for a business organization to locate in the City, and consultation with legal counsel under the authority of Sections 11(a)(1), 11(a)(4) and 11(a)(6) of Article 76A of the Annotated Code of Maryland.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 12:30 a.m. to convene again in general session on Monday, July 20, 1981, at 8:00 p.m. or at the call of the Mayor.